

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>MARCUS R. JOHNSON,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 22-186 Erie</b>
<b>v.</b>	)	
	)	
<b>DR. MONTAG,</b>	)	<b>District Judge Susan Paradise Baxter</b>
<b>Defendant.</b>	)	<b>Chief Magistrate Judge Richard Lanzillo</b>

**MEMORANDUM ORDER**

Plaintiff Marcus R. Johnson, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”), initiated this civil rights action by filing a *pro se* complaint, pursuant to 42 U.S.C. § 1983, against Defendants Dr. Montag, a dentist at SCI Forest (“Montag”); Derek Oberlander, SCI-Forest’s Superintendent (“Oberlander”); John Wetzel, the former Secretary of the Pennsylvania Department of Corrections (“Wetzel”); and Wellpath, Inc., a private medical service provider (“Wellpath”). This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On December 27, 2022, Plaintiff filed an amended complaint against Defendants Montag, Oberlander, and Wetzel [ECF No. 31], which is the operative pleading in this case. On the same date, Plaintiff filed a motion to dismiss his claims against Defendant Wellpath [ECF No. 32]. This motion was granted and Wellpath was terminated from this action. [ECF No. 33].

In his amended complaint, Plaintiff alleges that Defendants violated his rights under the

eighth amendment to the United States Constitution by implementing policies and taking actions that led to the delay and/or denial of dental treatment during the COVID-19 pandemic. On August 31, 2023, this Court entered a Memorandum Order [ECF No. 45] adopting Chief Magistrate Judge Lanzillo's Report and Recommendation to grant Defendants' motion to dismiss Plaintiff's claims against Defendants Oberlander and Wetzel, but to deny Plaintiff's claim against Defendant Montag. As a result, Defendants Oberlander and Wetzel have been terminated from this case and the only claim remaining is Plaintiff's Eighth Amendment deliberate indifference claim against Defendant Montag.

Following discovery, Defendants filed a motion for summary judgment on February 29, 2024 [ECF No. 57], which was fully briefed by the parties.

On August 9, 2024, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Defendant Montag's motion for summary judgment be granted on the sole remaining claim in this case. [ECF No. 82]. In particular, Judge Lanzillo concluded that Defendant Montag properly exercised his medical judgment in treating Plaintiff's dental pain. Objections to the R&R were due to be filed by August 30, 2024; however, no timely objections have been received.

Thus, after *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 3rd day of September, 2024;

IT IS HEREBY ORDERED that Defendant Montag's motion for summary judgment [ECF No. 57] is GRANTED, and judgment will be entered in favor of Defendant Montag and against Plaintiff on the sole remaining claim in this case. The report and recommendation of

Chief Magistrate Judge Lanzillo, issued August 9, 2024 [ECF No. 82], is adopted as the opinion of the court.

The Clerk is directed to mark this case CLOSED.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
Chief U.S. Magistrate Judge